

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board	)	CC Docket No. 96-45
on Universal Service	)	
	)	
TRACFONE WIRELESS, INC.	)	
	)	
Petition for Designation as an	)	
Eligible Telecommunications Carrier	)	
In the Commonwealth of Virginia	)	

**COMMENTS OF  
TDS TELECOMMUNICATIONS CORP.**

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## **SUMMARY**

On June 8, 2004, the Commission issued a Notice of Proposed Rulemaking (Notice) seeking comment on the Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) released on February 27, 2004 (Recommended Decision). Among other issues, the Notice sought comment on a number of proposals concerning the criteria and procedures for designating eligible telecommunications carriers (ETCs) entitled to receive support from the Universal Service Fund. In essence, the Joint Board proposal recommends that the Commission impose *additional* minimum eligibility requirements on carriers seeking ETC designation, with the goal of improving the long-term sustainability of the Universal Service Fund by ensuring that only fully qualified carriers who are capable of and committed to providing universal service in accordance with the Commission's rules are able to receive support from the Fund.

Against this backdrop of Commission efforts to contain the growth of the Universal Service Fund, TracFone Wireless, Inc. (TracFone) has filed the instant petition for ETC designation in Virginia and a related Petition for Forbearance. The Petitions ask the Commission to forbear from the long-standing requirement that ETCs provide supported services using their own facilities or a combination of their own facilities and resold service in order to grant ETC status to a pure reseller of prepaid wireless services. In an amendment filed in response to comments on the Forbearance Petition and TracFone's petition for ETC designation in New York, TracFone has modified the ETC Petition to seek ETC designation solely to recover support for a prepaid wireless Lifeline service. This proposed modification neither is permitted under the Commission's Rules nor improves the viability of the ETC Petition. The fact remains that the Forbearance Petition and ETC Petition fall far short of demonstrating that the public

interest would be served by significantly expanding the class of carriers eligible for ETC designation – in *two* respects – to encompass both pure wireless resellers and carriers that cannot satisfy the Section 214(e) requirements to serve high-cost areas but could meet a subset of requirements applicable to Lifeline service providers.

The Commission should deny the instant Petition because:

- It would be inconsistent with the Communications Act and the public interest for the Commission to grant either the requested forbearance from the Section 214(e)(1) facilities requirement or the proposed condition limiting TracFone's ETC designation to the recovery of Lifeline support;
- TracFone does not meet the statutory requirements for designation as an ETC because
  - The prepaid service for which TracFone seeks support does not meet universal service eligibility requirements because it does not provide consumers with a persistent, basic connection to the public switched telephone network; and
  - TracFone has not demonstrated that it can provide supported services throughout the service areas in which it seeks to be designated as an ETC; and
- The public interest would not be served by designating TracFone as an ETC (even solely to provide its proposed Lifeline service) in rural service areas in Virginia.

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TDS Telecommunications Corp. (TDS Telecom), parent company of rural local exchange carriers (RLECs) Amelia Telephone Corp., New Castle Telephone Company, and Virginia Telephone Company (collectively, the TDS RLECs), submits these comments in opposition to the Petition of TracFone Wireless, Inc. (TracFone), a pure reseller of prepaid commercial mobile radio services (CMRS), for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia (ETC Petition).<sup>1</sup> The Commission currently is exploring appropriate mechanisms for controlling the growth of the Universal Service Fund, including by imposing additional minimum eligibility requirements on carriers seeking ETC designation. Against the backdrop of this rulemaking proceeding, the Petitions fail to

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<sup>1</sup> Petition, *Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45 (filed July 21, 2004, Public Notice rel. July 28, 2004), as amended Aug. 16, 2004 (ETC Petition). The amendment asks the Commission to grant TracFone ETC designation solely to recover support for a prepaid wireless "Lifeline" service. Amendment to Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, CC Docket No. 96-45 (Aug. 16, 2004) (Amendment). In connection with the ETC Petition, TracFone has also filed a petition for forbearance from the requirement that ETCs provide supported services using their own facilities or a combination of their own facilities and resold services. Petition for Forbearance, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (filed June 8, 2004, Public Notice rel. June 24, 2004) (Forbearance Petition and, together with the ETC Petition, the Petitions). See Part II-A for a discussion of TDS Telecom's previously-filed comments on the Forbearance Petition.

demonstrate that the statutory requirements would be met or the public interest would be served by significantly *expanding* the class of telecommunications carriers eligible to draw from the Universal Service Fund by designating a pure reseller of prepaid wireless services as an ETC and/or by permitting carriers that do not satisfy the Section 214(e) requirements for ETC designation in high-cost areas to recover universal service support for Lifeline services.

**I. TRACFONE MUST SATISFY THE STATUTORY ELIGIBILITY REQUIREMENTS FOR ETC DESIGNATION EVEN IF IT NARROWS THE SCOPE OF UNIVERSAL SERVICE SUPPORT IT WOULD RECOVER.**

In comments filed on TracFone's petition for ETC designation in the State of New York, TDS Telecom and other commenters argued that TracFone did not satisfy the statutory requirements to be designated an ETC and that its designation as an ETC in rural, high-cost areas would not serve the public interest.<sup>2</sup> Rather than respond to these arguments, TracFone amended all of its pending ETC petitions to seek ETC designation "solely to enable [TracFone] to offer Lifeline service to eligible low income consumers."<sup>3</sup> TracFone contends that, by this change, "it has alleviated the concerns of those parties who filed oppositions to its petitions" for forbearance and ETC designation in New York.<sup>4</sup> TDS Telecom disagrees. As described more fully in Part II below, TracFone's ETC Petition fails to satisfy the statutory

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<sup>2</sup> See, e.g., Consolidated Comments of TDS Telecommunications Corp. on TracFone Wireless Petitions for Forbearance and ETC Designation, CC Docket No. 96-45 (July 26, 2004) (TDS Telecom Consolidated Comments); Comments of Verizon, CC Docket No. 96-45 (July 26, 2004); Comments of Frontier Communications of New York, Inc., CC Docket No. 96-45 (July 26, 2004); Comments of the New York State Telecommunications Association, Inc., CC Docket No. 96-45 (July 26, 2004); Opposition of Virgin Mobile USA, Inc., CC Docket No. 96-45 (July 26, 2004); Comments of TCA, Inc. – Telecom Consulting Associates, CC Docket No. 96-45 (July 26, 2004); see also Opposition of BellSouth Corp. to TracFone Petition for Forbearance, CC Docket No. 96-45 (July 26, 2004); Opposition of Dobson Cellular Systems, Inc. to TracFone Petition for Forbearance, CC Docket No. 96-45 (July 26, 2004).

<sup>3</sup> See Reply Comments of TracFone Wireless, Inc. on Petition for Designation as an Eligible Telecommunications Carrier in the State of New York, CC Docket No. 96-45, at 3 (Aug. 9, 2004) (TracFone NY Reply Comments); Amendment at 2. The Amendment states that "TracFone does not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost areas." Amendment at 2.

<sup>4</sup> See TracFone NY Reply Comments at 3.

requirements for designation as an ETC under Section 214(e) of the Act. And the Commission has made clear that a carrier may not avoid application of the Section 214(e) requirements by narrowing the scope of universal service support it will seek to recover pursuant to its ETC designation.

In its recent Report and Order and Further Notice of Proposed Rulemaking in the *Lifeline/Link-up* proceeding, the Commission denied a request by AT&T to modify the rules governing ETC designation to permit carriers to receive Lifeline and Link-Up support (Low Income Support) even if they do not meet the statutory requirements to be designated as an ETC to serve high-cost areas.<sup>5</sup> TracFone apparently believes that this decision does not apply to its amended ETC Petition, asserting that no “rule change is needed to designate TracFone as an ETC solely for participation in Lifeline” and that the Commission may simply attach “a condition . . . to [TracFone’s] ETC designation limiting its ETC status to receipt of universal service funds to support its Lifeline program.”<sup>6</sup>

TracFone’s proposal seeks to accomplish just what the Commission refused to allow in the *Lifeline/Link-Up Order* – to draw Low Income Support from the Universal Service Fund without satisfying the statutory requirements for ETCs serving high-cost areas. TracFone’s

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<sup>5</sup> AT&T asserts that the *Lifeline/Link-Up Order* misunderstood or misconstrued AT&T’s request. While the *Order* “declines to establish rules that would provide Lifeline/Link-Up support directly to carriers that are not ETCs,” see Report and Order and Further Notice of Proposed Rulemaking, *Lifeline and Link-Up*, WC Docket No. 03-109, FCC 04-87, ¶ 54 (rel. Apr. 29, 2004) (*Lifeline/Link-Up Order*), AT&T contends that it sought rule changes that would permit carriers to seek separate certification (pursuant to separate requirements) as an ETC for purposes of receiving Low Income Support only. Petition of AT&T Corp. for Limited Reconsideration, WC Docket No. 03-109, at 1 (July 21, 2004). Regardless of how the decision is characterized, however, the fact is that AT&T sought, and the Commission rightly denied a request, to authorize carriers to receive Lifeline support where they are unable to satisfy all the statutory (and state regulatory) requirements for designation as an ETC. The Commission correctly concluded that Section 254(e) of the Communications Act permits payment of universal service support only to carriers that are designated as ETCs pursuant to Section 214(e) of the Act (which requires, *inter alia*, that ETCs provide all supported services throughout the designated service area), and that providing Low Income Support to carriers that fail to meet all the requirements for ETC designation under Section 214(e) could “serve as a disincentive for other carriers to comply with their ETC obligations.” *Lifeline/Link-Up Order* ¶ 54. AT&T has sought reconsideration of this conclusion, but the Commission has not yet addressed the petition.

<sup>6</sup> See TracFone NY Reply Comments at 3 n.4.

Reply Comments on its petition for ETC designation in New York do not refute the comments describing TracFone's ineligibility for ETC designation in high-cost areas; TracFone argues simply that its acceptance of a condition limiting its receipt of universal service support to Lifeline services "obviates all of the concerns raised in those comments."<sup>7</sup> That statement is incorrect. The *Lifeline/Link-Up Order* makes clear that the proposed "Lifeline only" condition does *not* "obviate" the need for TracFone to satisfy all the requirements of Section 214(e) before it can be designated an ETC.

## **II. TRACFONE DOES NOT MEET THE STATUTORY REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

The ETC Petition asks the Commission to designate TracFone as a competitive eligible telecommunications carrier throughout all the rural and non-rural service areas in Virginia. Section 214(e) of the Act provides that any carrier seeking designation as an ETC must provide all the supported services throughout the requested service area using its own facilities or a combination of its own facilities and resold services and must demonstrate that the public interest would be served by designation of the carrier as an ETC in any rural service area.<sup>8</sup>

TracFone's ETC Petition does not meet these requirements.

### **A. TracFone Does Not Provide Supported Services Using Its Own Facilities Or A Combination Of Its Own Facilities And Resold Services And Is Not Entitled To Forbearance From This Requirement**

TracFone acknowledges that it does not meet the statutory requirement to provide service using its own facilities or a combination of its own facilities and resold services.<sup>9</sup>

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<sup>7</sup> *Id.* at 1.

<sup>8</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>9</sup> ETC Petition at 3.



TracFone seeks forbearance from this requirement in order to be designated as an ETC.<sup>10</sup> For the reasons set forth in the TDS Telecom Consolidated Comments, TracFone has not met the requirements necessary to justify forbearance from the facilities-based requirement in connection with the ETC Petition.<sup>11</sup> Accordingly, TracFone does not meet the statutory requirements for ETC designation and the ETC Petition should be denied on that ground.

**B. TracFone Does Not Provide All Of The Supported Services Throughout The Designated Service Area**

Even if the Commission were to grant the Forbearance Petition, TracFone still would not satisfy the eligibility requirements for designation as an ETC. To be eligible for ETC designation, a petitioner must demonstrate that it offers all the supported services throughout the designated service areas. The supported services are: (1) voice grade access to the public switched telephone network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to 911 and E911 emergency service; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualified low-income customers.<sup>12</sup> Setting aside the obligation to provide these services using at least some of the petitioner's own facilities, TracFone has not demonstrated that it will provide all of these services throughout all rural and non-rural service areas in Virginia.

With respect to E911 service, TracFone states that it will implement E911 service “when such services are made available by the carriers from whom TracFone purchases

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<sup>10</sup> *Id.* at 3-5; Forbearance Petition.

<sup>11</sup> TDS Telecom submitted comments in opposition to the Forbearance Petition together with its comments on the TracFone petition for ETC designation in New York. TDS Telecom Consolidated Comments at 2-8. We incorporate those comments herein.

<sup>12</sup> *See* 47 C.F.R. § 54.101(a).

service.”<sup>13</sup> Thus, TracFone’s ability to provide required services is dependent on decisions made by other carriers. If those carriers have not deployed E911 as required to receive universal service support (and TracFone asserts that most of its underlying vendors have not been granted ETC designation), then TracFone also is not entitled to receive support. It is not enough for TracFone to state that it will provide supported services to the extent they are made available by underlying carriers who are not themselves ETCs and have not demonstrated that they provide the required services.

TracFone also admits that it does not provide toll limitation to its customers, but insists that there is “no need” to do so because of the prepaid nature of TracFone’s wireless service.<sup>14</sup> Toll limitation refers to a service that allows a customer to block or limit the completion of outgoing toll calls from the customer’s number.<sup>15</sup> The purpose of the service is to allow low-income customers in particular to limit their expenditures for toll calls so that “lifeline” local services (including access to emergency services) are not terminated because of high unpaid toll charges.<sup>16</sup> TracFone asserts that because its customers must pay for service in advance, there is no possibility that they will be “disconnected” for failure to pay heavy toll charges and thus no need (and no way) for TracFone to allow its customers to limit their use of toll services.<sup>17</sup> TracFone claims that its customers have sufficient ability “to control or limit their

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<sup>13</sup> ETC Petition at 6.

<sup>14</sup> *Id.* at 7.

<sup>15</sup> 47 C.F.R. § 54.400(b)-(d).

<sup>16</sup> See Fourth Order on Reconsideration, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 13 FCC Rcd 5318, 5388-89 (1997) (“[W]e believe that requiring carriers to provide at least one type of toll-limitation service is sufficient to provide low-income consumers a means by which to control their toll usage *and thereby maintain their ability to stay connected to the public switched telephone network.*”) (emphasis added).

<sup>17</sup> See ETC Petition at 7-8 (“TracFone treats long distance minutes as any other minutes and the customers are not charged separately for toll services. Inasmuch as all TracFone services are prepaid there is no danger that low income customers will incur large charges for heavy toll (or other) calling and no risk that they will be disconnected for nonpayment.”).

charges for toll service (as well as local service)” by limiting the amount they prepay for service.<sup>18</sup>

TracFone’s argument fails to recognize – and its service fails to achieve – the goal of providing supported, toll-limited service to low income customers. When a low income customer obtains toll-limited Lifeline service from a wireline local service provider, the customer is able to control the expenditure of limited resources and ensure basic connectivity to critical public safety and other local communications services. By contrast, the default state for TracFone’s prepaid customers is not one of basic connectivity to local service. Instead, as TracFone fully acknowledges, customers “can use only what [services] they already have paid for.”<sup>19</sup> Thus, customers are in a persistent state of “disconnection” until they provide some payment to TracFone for service.<sup>20</sup> If the customer uses up the service it has paid for, it loses access to *any* service until additional funds are paid. Moreover, because “TracFone treats long distance minutes as any other minutes,”<sup>21</sup> there is no way for TracFone to allow its low-income customers to limit their usage of (what may be scarce) prepaid services to critical local communications.<sup>22</sup> This is the goal of the toll limitation requirement. Because TracFone cannot

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<sup>18</sup> *Id.* at 8.

<sup>19</sup> *Id.*

<sup>20</sup> Although the TracFone NY Reply Comments state that TracFone handsets will allow 911 calling even for customers that have no prepaid minutes available, TracFone NY Reply Comments at 10, connectivity to other local services (such as a parent’s ability to receive calls from a child’s school) would be unavailable until additional prepaid minutes are purchased.

<sup>21</sup> ETC Petition at 7.

<sup>22</sup> The description of TracFone’s planned Lifeline service in the TracFone NY Reply Comments illustrates the problem: “TracFone’s Lifeline program would provide participants with 250 minutes of prepaid calling time for a flat charge of \$25.00. . . . Prepaid minutes under the plan could be used for local *or long distance* calling and would be usable within or outside the customer’s local calling area. . . . Once purchased, those minutes would be available to the customer for at least one year *until the purchased quantity was depleted*. Once depleted, additional prepaid cards could be purchased at the same price.” TracFone NY Reply Comments at 4 (emphasis added). This description makes clear that there will be no way for TracFone Lifeline customers to limit their use of prepaid minutes to local communications. Accordingly, a customer could place *or receive* long distance calls that rapidly deplete the allotted minutes, leaving the customer with no access to service until he or she purchases additional

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meet this requirement – and cannot give its customers the opportunity to ensure that toll usage does not interfere with access to local services – it does not provide “universal service” and cannot be designated as an eligible telecommunications carrier.

Finally, the ETC Petition does not demonstrate adequately that TracFone can (or within a reasonable time will) provide service throughout the service areas in which it seeks ETC designation. In the recent *Virginia Cellular* and *Highland Cellular* decisions granting ETC designation to wireless carriers, the Commission examined detailed information submitted by the petitioning carriers about the scope of their network facilities, future build-out plans, and procedures for responding to customer requests for service to confirm each carrier’s commitment to serving the entire area in which it sought ETC designation.<sup>23</sup> Because TracFone does not operate its own facilities, it cannot and does not provide this type of information in the ETC Petition.<sup>24</sup> Accordingly, TracFone has not shown that it satisfies the obligation in Section 214(e)(1) to provide the supported service (even just its Lifeline service) throughout all the non-rural and rural service areas in which it seeks ETC designation.

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minutes. The customer thus would be without access to basic local communications because of excessive long distance calling (which in the case of a wireless customer may not be entirely within the customer’s control because of the “called party pays” billing structure for wireless service in the United States).

<sup>23</sup> See, e.g., Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338, ¶¶ 15-16, 23 (rel. Jan. 22, 2004) (*Virginia Cellular*); Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service, Highland Cellular, Inc Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37, ¶¶ 16-17 (rel. Apr. 12, 2004) (*Highland Cellular*).

<sup>24</sup> TracFone has not offered any evidence that its underlying vendors provide comprehensive and reliable wireless coverage throughout all the areas in which it seeks ETC designation, nor have those underlying carriers made any such showing in connection with their own petitions for ETC designation. For example, one of the underlying facilities-based carriers on which TracFone relies for service, Virginia Cellular, ETC Petition at 2, acknowledged in its own petition for ETC designation that it could not provide service throughout the study areas of MGW Telephone Company, NTELOS Telephone, and Shenandoah Telephone Company. See *Virginia Cellular* ¶ 32. Although TracFone has claimed that it can obtain service from another vendor if it identifies service problems with one of its facilities-based providers, see TracFone NY Reply Comments at 11, it has not shown with specificity that vendors are available, with no gaps in coverage, covering the entire area in which it seeks ETC designation.

**C. Designation Of TracFone As An Eligible Telecommunications Carrier Would Not Serve The Public Interest**

In addition to failing to demonstrate that it provides all the supported services throughout the entire Commonwealth of Virginia in which it seeks ETC designation, TracFone has not shown that its designation as an ETC in rural areas (even solely for the purpose of providing a Lifeline service) would serve the public interest.

Where a petitioner seeks ETC designation in an area served by a rural local exchange carrier, the petitioner must show that the public interest would be served by designating the petitioner as an additional ETC in the rural service area.<sup>25</sup> In *Virginia Cellular* and *Highland Cellular*, the Commission stated that, pending a decision on the ETC designation issues raised in the Recommended Decision, this public interest analysis will “weigh the benefits of increased competitive choice, the impact of the designation on the universal service fund, the unique advantages and disadvantages of the competitor’s service offering, any commitments made regarding quality of telephone service, and the competitive ETC’s ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.”<sup>26</sup> Applying this standard as prescribed in *Virginia Cellular* and *Highland Cellular*, it is clear that the public interest would not be served by designating TracFone as an ETC in rural service areas throughout Virginia.

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<sup>25</sup> At noted in Part I above, this requirement applies even if TracFone seeks to recover universal service support solely to provide a Lifeline service in these rural areas.

<sup>26</sup> See *Virginia Cellular* ¶ 28; *Highland Cellular* ¶ 22. In commenting on other pending petitions for ETC designation, TDS Telecom has urged the Commission not to apply the *Virginia Cellular/Highland Cellular* “interim standard” to pending ETC petitions but to defer consideration of the pending petitions until the ETC designation issues raised in the Recommended Decision have been resolved in the rulemaking context. See, e.g., Comments of TDS Telecommunications on Petition of RCC Minnesota, Inc. and RCC Atlantic, Inc. for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire, CC Docket No. 96-45, at 2-7 (June 21, 2004). We reiterate and incorporate those arguments herein. However, for the additional reasons set forth here, the TracFone Petitions can and should be denied without waiting for resolution of the ETC designation issues in the Recommended Decision.

First, it is not clear that granting TracFone ETC status will result in any increased competitive choice or improved service quality in rural service areas. The ETC Petition states that TracFone already provides affordable wireless service targeted at low income, low volume users, at uniform national rates, throughout the rural service areas served by its underlying facilities-based CMRS suppliers.<sup>27</sup> Because TracFone resells existing services, any service it provides will be in areas that already are served by a facilities-based wireless carrier. Accordingly, the payment of universal service support to TracFone will not extend the reach of its service to areas where competitive choices are not currently available.

Moreover, the “Lifeline” service for which TracFone seeks support is not likely to offer a “competitive” alternative for many low-income consumers. As described in Part II-B above, the service would provide insufficient basic connectivity to local communications to function as an effective substitute for wireline Lifeline services.<sup>28</sup> The TracFone service would also be considerably more expensive than the wireline Lifeline services offered by the TDS RLECs. The TDS RLECs offer Lifeline services including unlimited local usage, plus toll limitation, at rates (inclusive of taxes and fees) ranging from approximately \$6.70 to \$11.60 per month.<sup>29</sup> TracFone’s proposed Lifeline service would offer 250 minutes (just over 8 minutes per day in a 30-day month) of usage (encompassing calls both placed and received, with no limitation to local calling) for \$25. It is not difficult to imagine that a customer using the TracFone service as its sole “lifeline” service would place and receive more than 8 minutes of

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<sup>27</sup> See, e.g., ETC Petition at 2; Amendment at 2.

<sup>28</sup> Indeed, TracFone’s inferior “lifeline” offering could harm the public interest by diluting the benefit of nearly universal connectivity that “lifeline” service historically has offered.

<sup>29</sup> Lifeline offerings including unlimited Extended Area Service (EAS) usage are available in some areas at rates ranging from approximately \$19.75 to \$27.00 per month.

telephone calls per day, requiring the purchase of additional minutes (in \$25 blocks) even before the end of a month.

Second, although TracFone contends that its prepaid wireless service offers the benefits of mobility and affordability, the “toll limitation” discussion above highlights a unique and fundamental *disadvantage* of TracFone’s service offering. TracFone’s prepaid service simply does not offer the basic connectivity to the local telephone network that is the foundation of universal service. The TracFone service is transient and cuts off whenever the customer expends the allotted minutes and is unable to prepay for additional service. This type of service may have a place in the market, but it is not the type of service that should be supported by limited universal service funds.

Finally, as TracFone admits in the Forbearance Petition, designating TracFone as an ETC would require eliminating the foundational requirement that ETCs provide service using their own facilities or a combination of their own facilities and resold services. The Amendment asks the Commission to depart even further from existing limitations on the payment of universal service support to allow a carrier to seek ETC designation solely for the purpose of providing Lifeline service (which TracFone seems to assume would be pursuant to a different public interest test than that applied to ETC petitions seeking high-cost support).<sup>30</sup> Expanding the class of carriers eligible for universal service support in this way would have a substantial overall impact on the Fund, the full scope of which cannot be predicted at this time. The public interest would not be served by placing these new burdens on the Universal Service Fund at this time.

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<sup>30</sup> See TracFone NY Reply Comments at 3 (“By limiting the scope of its request for ETC designation to Lifeline service, TracFone believes that it has alleviated the concerns of those parties who filed oppositions to its petitions.”).

**CONCLUSION**

TracFone has not met the statutory requirements for granting either the Forbearance Petition or the ETC Petition. Nor has TracFone demonstrated that the public interest would be served by granting the Petitions. Accordingly, TDS Telecom urges the Commission to reject both Petitions and dedicate its resources to resolving the ETC designation issues raised in the pending Recommended Decision.

Respectfully submitted,

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A handwritten signature in blue ink, appearing to read "Mary Newcomer Williams".

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